
Appeal Decision

Site visit made on 6 June 2017

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th June 2017

Appeal Ref: APP/V2255/W/17/3170343
Hope Cottage, Oad Street, Borden ME9 8LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Wilson against the decision of Swale Borough Council.
 - The application Ref 16/503332/FULL, dated 17 April 2016, was refused by notice dated 30 January 2017.
 - The development proposed is erection of new dwelling with associated access and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling with associated access and parking at Hope Cottage, Oad Street, Borden ME9 8LB in accordance with the terms of the application, Ref 16/503332/FULL, dated 17 April 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. Prior to the application's determination by the Council it was amended with the submission of drawing 187/101 Revision D, which shows revised sight line details. I have determined the appeal having regard to drawing 187/101 Revision D.
3. The appealed application was submitted further to the refusal of planning permission under file reference 15/501167/FULL for a similar development and the subsequent dismissal of an appeal¹. The parties have variously referred to the previous proposal without providing any drawings relating to it. Accordingly at my request, and for the purposes of clarification, the appellant has submitted a copy of the site layout plan that accompanied the previous application.

Main Issues

4. The main issues are: whether the site would be an appropriate location for a dwelling, having regard to local and national planning policies concerning housing in rural areas; and the effect on highway safety, with particular regard to the eastern sight line.

¹ APP/V2255/W/15/3129434

Reasons

Location of the development

5. The development would involve the construction of a detached, five bedroom, dwelling. The dwelling would occupy a plot that has the appearance of being garden land and the site is situated between The Hollies and Hope Cottage. Oad Street is a hamlet characterised by ribbon development, which is mainly residential, with dwellings of individual designs being set in substantial plots.
6. Oad Street does not have a defined built up area for the purposes of the Swale Borough Local Plan of 2008 (the Local Plan). The dwelling, in development plan policy terms, would therefore be located within the countryside. This proposal would therefore be in conflict with various policies of the Local Plan that address the location of new development, most notably saved Policies E6 and RC3, which discourage new dwellings in settlements that do not have defined built up areas. Policies E6 and RC3 refer to a number of exceptions when development in a location such as this may be acceptable. Those exceptions, amongst other things, relate to development that is required in association with a use requiring a rural location, the reuse of a building, the rebuilding or extension of a dwelling or the provision of affordable housing. The aforementioned exceptions do not apply to this case.
7. The Local Plan is currently in the process of being replaced and the emerging Local Plan² has reached an advanced stage in its examination. Policy ST3 of the emerging Local Plan identifies a locational strategy similar to that of the adopted Local Plan. The development would therefore not accord with emerging Policy ST3.
8. However, the Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites (HLS). Accordingly because the adopted Local Plan's policies for the supply of housing are not up to date the fourth bullet point under paragraph 14 of the National Planning Policy Framework (the Framework) is engaged. That is planning permission should be granted unless '...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted'.
9. Paragraph 55 of the Framework promotes sustainable development in rural areas and states that housing should be located where it will enhance or maintain vitality in rural communities, with development within one village in some instances having the potential to support services in others nearby. Paragraph 55 goes on to state that isolated homes in the countryside should be avoided unless there are special circumstances. This development would come within none of the exceptions listed in paragraph 55. However, the development would amount to infilling between two dwellings in a hamlet and would therefore not be in the open countryside in the true sense or give rise to the provision of a home in an isolated location.
10. Oad Street has limited access to bus services and it is likely that there would be a high degree of private motor vehicle dependency amongst the occupiers of the dwelling. However, the number of additional vehicle movements

² The Swale Borough Local Plan 'Bearing the Fruits 2031'

generated by an extra dwelling would be quite modest and comparable with those generated by the other properties in the hamlet. There would therefore be no significant harm to the environment arising from the vehicular activity associated with the dwelling's occupation. Within the hamlet there are some local services and facilities available and there would therefore be some limited scope for the dwelling's occupiers to contribute towards the economic and social wellbeing of the hamlet and other settlements in the area.

11. For the reasons given above I conclude that this would be an appropriate location for a dwelling, having regard to the provisions of Paragraph 55 of the Framework. While there would be conflict with Policies SP1, SH1, E6, RC3 and H2 of the Local Plan, by reason of the site's location in the rural area, I consider that the provision of a dwelling in this instance would not demonstrably frustrate the strategy for the location of new housing stated in the Local Plan, nor that emerging as part of the Local Plan's replacement.

Highway Safety

12. The development would be served by a new vehicle access and in this respect the scheme before me departs from the previous one, under which it was intended that the dwelling would utilise the access currently shared with The Hollies. The acuteness of the alignment of the existing access gave rise to visibility concerns for drivers emerging onto Oad Street and resulted in the previous appeal's dismissal.
13. The access now proposed has sought to overcome the previously identified concern. To that end the highway authority has raised no objection, albeit that the eastern 'visibility splay' (sight line) includes land in front of The Hollies that is outside the appellant's control. The Council therefore objects to the development on the grounds that the eastern sight line sought by the highway authority could not be secured. I recognise that the occupiers of The Hollies could make alterations to the frontage of their property, for example undertaking planting or installing a boundary wall or fence, which could affect the sight line that the occupiers of the new dwelling would be reliant on. However, undertaking such alterations would affect the eastern sight line available to The Hollies' occupiers and would therefore be unlikely.
14. Regard also needs to be paid to the fact that the site is close to a traffic calming feature and the scale of traffic using Oad Street. Further regard also needs to be paid to the likely number of vehicular movements the new dwelling would generate. When all of those factors are taken into account I consider that if the eastern sight line was to be impaired in the future then there would be no unacceptable prejudice to highway safety, given the relatively low volumes of traffic using Oad Street and the likely frequency of the new access' use.
15. For the reasons given above I conclude that there would be no unacceptable effect on highway safety. I therefore find that there would be no conflict with saved Policy T1 of the Local Plan or paragraph 32 of the Framework because there would be no unacceptable reduction in highway safety and the access would be suitable for its users.

Planning Balance

16. The development would give rise to conflict with the locational strategy for new housing identified in the Local Plan. That is because it would involve the provision of a house within a hamlet that does not have a defined built up area. However, as the development would involve the provision of one dwelling the degree of conflict with the locational strategy would be limited and some economic and social advantages would arise from an additional dwelling being built and occupied. A benefit would arise from granting permission for a dwelling at a time when there is no confirmed HLS. I am also of the opinion that the development would not give rise to any unacceptable harm to the local environment, with the scale, siting and design of the dwelling being sympathetic with its surroundings. The scale of vehicular activity associated with the dwelling's occupation would also not cause significant harm to the environment.
17. I therefore consider that on balance planning permission should be granted because the adverse impact, ie the conflict with the Local Plan's locational strategy, would not significantly and demonstrably outweigh the benefits of this development.

Conditions

18. The Council has suggested various conditions and I have considered the need for their imposition, having regard to the provisions of the national policy and guidance.
19. Apart from the standard time limit condition, I find it necessary that the development should be built to accord with the submitted plans for certainty. In order to safeguard the appearance of the area it is necessary that details of the external materials and landscaping be submitted for the Council's approval. I consider that the landscaping scheme should be submitted and approved prior to the commencement of the development because the construction phase could involve removing part of the front boundary hedge to gain access to the site. It is therefore necessary that the extent of the hedge to be retained is established through the approval of the landscaping details before the development is commencement.
20. In the interests of highway efficiency it is necessary that the on-site parking is available for use prior to the dwelling's occupation and is retained thereafter. I have therefore imposed a condition to that effect.
21. To safeguard highway safety the Council has suggested the imposition of a condition requiring the provision of the sight lines shown on drawing 187/101 Revision D. However, the eastern sight line, for the most part, falls within land that is in third party ownership and the appellant does not have any control over that land. The Council's suggested condition would therefore be unenforceable and its imposition would be contrary to paragraph 206 of the Framework. There is a need for the maximum possible sight lines to be provided. I have therefore imposed a condition requiring the provision of the sight lines shown on drawing 187/101 Revision D to the extent that they fall within land identified as being within the appellant's control, ie the red line area shown on drawing 187/100 Revision A.

22. Conditions requiring the submission of details for the use of sustainable construction techniques and the disposal of foul and surface water have been suggested. However, no detailed policy justification for those conditions has been provided and they could duplicate matters covered by other legislation. I am therefore not persuaded of the need to impose conditions requiring the submission of sustainable construction technique and drainage details. I am also of the opinion, given the scale of the development, that it is unnecessary for conditions to be imposed controlling the hours during which the construction works can be undertaken or prohibiting the burning of refuse, because nuisance arising from those activities is controllable via other legislation.

Conclusion

23. For the reasons given above the appeal is allowed.

Grahame Gould

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 187/100 Revision A – Proposed Block Plan; 187/101 Revision D – Proposed Site Layout Plan; and 187/102 Revision A – Proposed Plans and Elevations.
- 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: the identification of the existing trees, shrubs and hedging to be retained, planting schedules for new trees and plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation and maintenance programme.

The landscaping works shall be implemented in accordance with the approved details, including the implementation programme. Thereafter the planting shall be maintained in accordance with the approved maintenance programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 4) No development above foundation level shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) The area shown on drawing 187/101 Revision D for vehicle parking and manoeuvring shall be provided and be made available for such use prior to the first occupation of the development. Thereafter the vehicle parking and

manoeuvring area shall be retained and shall not be used for any purposes other than the parking and manoeuvring of vehicles.

- 6) The visibility splays shown on drawing 187/101 Revision D, insofar as they fall within the red line area outlined on drawing 187/100 Revision A, shall be provided prior to the first occupation of the development. Thereafter the visibility splays shall be kept clear of any structure, tree, plant or other obstruction exceeding 0.6 metres in height above the carriageway level in Oad Street.